

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: :
:
MICHAEL FRANTZ PHILLIPS and : CHAPTER 13
ROCHELLE PHILLIPS, :
:
Debtors : BKRTCY. NO. 19-12980 pmm
:
: HEARING DATE: 7/18/2023
: TIME: 10:00 A.M.

**DEBTORS' MOTION TO REINSTATE AND REIMPOSE THE AUTOMATIC STAY AS
TO PNC BANK, N.A. AND DEBTORS' RESIDENTIAL REAL ESTATE AT 207-1/2
S. 14TH STREET, ALLENTOWN, PA PURSUANT TO 11 U.S.C. SECTION 105**

Debtors hereby move for Reinstatement and Reimposition of the Automatic Stay as to PNC Bank, N.A., and in support thereof aver as follows:

1. Debtors' case was filed on February 2, 2023. Debtors own their residence at 207-1/2 S. 14th Street, Allentown, PA, which is subject to a mortgage in favor of PNC Bank, N.A.

2. The mortgage was in default at the commencement of the case but Debtors' plan provided for a 'cure' and maintenance of regular monthly payments.

3. Because Debtor Mr. Phillips was in between jobs several month ago, Debtors fell behind in payments to both PNC Bank and the Trustee in late 2022.

4. The problem with PNC was resolved by a Stipulation and Order at Document Numbers 73 and 74.

5. Debtor Mrs. Phillips' brother passed away and Mrs.

Phillips was the only family member willing and able to contribute to properly prepare a respectful service and burial. As a consequence, Debtors fell behind with PNC.

6. PNC filed a Certification of Default relative to a Stipulation on or about May 12, 2023. Doc. 76.

7. The Court entered an Order granting relief from the stay on May 19, 2023. Doc. 77.

8. In conversations with PNC counsel, a solution in principal has been discussed which involves the filing of a Motion to Modify Plan, a modified Plan, and this Motion to Reinstate and Reimpose Stay in order to allow for additional cure of post-stipulation defaults and also to pay out Debtors' plan which also includes remaining 'cure' dollars to PNC.

9. The amounts are not significant; however, the fairest and simplest way to proceed is to reinstate the automatic stay and have the Trustee conclude his payment to PNC, and to have PNC add in post-stipulation dollars. (It is anticipated that this will come in the form of a stipulated order resolving this motion.)

10. Debtors will be setting aside weekly payments of \$950 in order to cure the 'regular' monthly payments due for April, May, June and July. All other past due amounts will be resolved in the proposed Fourth Amended Plan.

11. The companion Motion to Modify is being filed concurrently herewith. The proposed, amended plan will cure the currently posted arrears and also will pay all creditors (very small numbers) in full prior to the sixtieth month.

12. It is suggested that this proposal provides adequate protection of the interests of PNC, who will ultimately receive full payment of their pre-petition and post-petition arrearage claims in fairly short order, along with regular monthly payments to cover April through July, 2023.

13. The property which is subject to the PNC mortgage is Debtors' residence, and is necessary to an effective reorganization. Saving the home was the primary purpose of the Chapter 13 filing.

14. Debtors request that the Court reinstate and reimpose the Automatic Stay with respect to the Debtors' residential real estate and PNC Bank, and for such other and further relief as is just.

WHEREFORE, the Debtors request that this Court reinstate and reimpose the Automatic Stay with respect to Debtors' residential real estate located at 207-1/2 S. 14th Street, Allentown, Pennsylvania, to the extent that creditor PNC Bank has received such relief as the result of the May 19, 2023 Order.

Respectfully submitted,

**LAW OFFICES OF
KEVIN K. KERCHER, ESQUIRE, P.C.**

Date: June 26, 2023

/s/ Kevin K. Kercher
Kevin K. Kercher, Esquire
881 Third Street, Suite #C-2
Whitehall, PA 18052
(610) 264-4120 phone
(610) 264-2990 fax
Attorney for Debtors